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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/961,266	09/25/2001	Eric Ehrman	P-3593-US	8049
27130	7590	12/03/2004	EXAMINER	
EITAN, PEARL, LATZER & COHEN ZEDEK LLP 10 ROCKEFELLER PLAZA, SUITE 1001 NEW YORK, NY 10020			REFAJ, RAMSEY	
			ART UNIT	PAPER NUMBER
			2154	

DATE MAILED: 12/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/961,266	Applicant(s) EHRMAN ET AL.	
	Examiner Ramsey M Refai	Art Unit 2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09/25/2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-12 are presented for examination.

Drawings

2. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings are unclear. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Oath/Declaration

3. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

- Applicant has not given a post office address anywhere in the application papers as required by 37 CFR 1.33(a), which was in effect at the time of filing of the oath or declaration. A statement over applicant's signature providing a complete post office address is required.

- The date of filing of the provisional application No. 60/237,365, dated October 4, 2001 in the oath and declaration is incorrect.

Specification

4. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

5. As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

(a) TITLE OF THE INVENTION.

(b) CROSS-REFERENCE TO RELATED APPLICATIONS.

(c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR
DEVELOPMENT.

(d) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A
COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program
listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables

having more than 50 pages of text are permitted to be submitted on compact discs.) or

REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a).

"Microfiche Appendices" were accepted by the Office until March 1, 2001.)

(e) BACKGROUND OF THE INVENTION.

(1) Field of the Invention.

(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.

(f) BRIEF SUMMARY OF THE INVENTION.

(g) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).

(h) DETAILED DESCRIPTION OF THE INVENTION.

(i) CLAIM OR CLAIMS (commencing on a separate sheet).

(j) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

(k) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

6. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they

must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 12 has been renumbered 11.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

8. Claims 1 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The word “generally” renders the scope of the claim(s) unascertainable.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1,3-5, 7-9, and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Hazra (U.S. Patent No. 6,510,553).

11. As per claim 1, Hazra teaches a method for streaming content via a network to a receivers the method comprising:

receiving multiple streams, each generally from a different supplier, wherein said multiple streams together form said content (**column3, lines 33-38 and column 4, lines 18-39**).

12. As per claims 3 and 7, Hazra teaches said content is a video stream (**column 3, lines 33-38**).

13. As per claims 4 and 8, Hazra teaches a said content is a movie (**column 1, lines 12-23; shows a stream that consists of an audio and a video signal**).

14. As per claim 5, Hazra teaches that each stream is formed of a plurality of separately transmittable chunks (**column 2, lines 22-23; data packets**).

15. As per claim 9, Hazra teaches a set of chunks (**column 2, lines 22-23; data packets**), one from at least one of said multiple streams, into a section of said content (**column3, lines 33-38 and column 4, lines 18-39; streaming involves sending data in packets, packets are then recombined to form the content**).

16. As per claim 10, Hazra teaches displaying said content stream (**column 1, lines 18-23**) and replacing at least one said supplier during said displaying (**column 9, lines 9-16 and column 9, lines 38 – 46**).

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 2 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hazra by (U.S. Patent No. 6,510,553) in view of AAPA (Applicant Admitted Prior Art).

19. As per claim 2, Hazra fails to teach that each said supplier has a narrower upload bandwidth than a download bandwidth of said receiver.

20. However, AAPA teaches that although the receiving computer has a wide bandwidth for download, the sending computer cannot send a wide bandwidth of data to the receiving computer (**paragraph [0006]**). It would have been obvious to one of the ordinary skill in the art at the time of the applicant's invention to combine the teachings of Hazra and AAPA because AAPA's teaching that each said supplier has a narrower upload bandwidth than a download bandwidth of said receiver in Hazra's method would allow for a user to download content from multiple suppliers.

21. As per claim 11, Hazra teaches a method for streaming content via a network to a receiver, the method comprising: receiving multiple streams, each generally from a different supplier, wherein said multiple streams together form said content (**column3, lines 33-38 and column 4, lines 18-39**).

22. Hazra fails to teach providing a plurality of streams to a plurality of different suppliers.

23. However, AAPA teaches providing a plurality of streams to a plurality of different suppliers (**paragraph [0004]; peer-to-peer users provide music files to other user who supply files**). It would have been obvious to one of the ordinary skill in the art at the time of the applicant's invention to combine the teachings of Hazra and AAPA because AAPA's use of providing a plurality of streams to a plurality of suppliers in Hazra's method would allow for a user that receives content, such as music streams, from other users to send content to these users supplying the content, thereby creating a file-sharing network.

24. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hazra by (U.S. Patent No. 6,510,553) in view of Kawamura et al (U.S. Patent No. 6,728,271).

25. As per claim 6, Hazra fails to teach one of the following processing methods: encryption, demultiplexing and scrambling.

26. However, Kawamura et al teaches demultiplexing of a stream (**column 1, lines 10-13**). It would have been obvious to one of the ordinary skill in the art at the time of the applicant's invention to combine the teachings of Hazra and Kawamura et al because Kawamura et al's use

of demultiplexing a stream in Hazra's method would allow for the breaking up of a stream into packets of data in order to send the content to the requesting client.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Shin (U.S. Patent No. 6,558,049)
- b. Lawrence (U.S. Patent No. 6,721,957)
- c. LaRocca et al (U.S. Patent No. 6,578,201)
- d. Graham (U.S. Patent No. 6,732,183)
- e. Fuller et al (U.S. Patent No. 6,711,622)
- f. Apostolopoulos (U.S. Patent No. 6,611,530)
- g. Leighton et al (U.S. Patent No. 6,665,726)
- h. Chang et al (U.S. Patent No. 6,816,909)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramsey M Refai whose telephone number is (571) 272-3975.

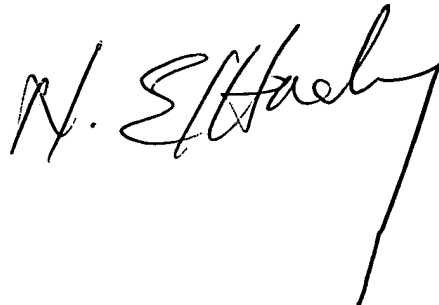
The examiner can normally be reached on M-F 8:30 - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ramsey M Refai
Examiner
Art Unit 2154

RMR
November 11, 2004

A handwritten signature in black ink, appearing to read "N. S. Hachy", with a long vertical stroke extending downwards from the end of the signature.